

Remarks

Reconsideration and withdrawal of the objections and rejections of the claims and objection to the disclosure in view of the remarks and amendments presented herein is respectfully requested. Claims 1-2 and 21-43 are cancelled without prejudice or disclaimer, and claim 3 is amended. As a result, the pending claims are claims 3-20. The specification is amended to provide priority information. The amendments are fully supported by the specification as filed. No new matter has been added by way of these amendments.

Applicants' note the Examiner's remarks at paragraph 1, page 2 of the Office Action, wherein Examiner Wallenhorst refers to the Amendment and Response under 37 C.F.R. § 1.111 filed August 2, 2006 (the "Amendment and Response"). In response, Applicants' note that a Supplemental Amendment and Response under 37 C.F.R. § 1.111 was filed October 30, 2007 (the "Supplemental Amendment"). In the Supplemental Amendment, Applicants' remarked that a typographical error appeared in the Amendment and Response. In the Supplemental Amendment, as well as the present paper, Applicants respectfully request that the above-identified specification be amended as indicated hereinabove, to reflect that the present application claims the benefit of prior-filed U.S. provisional patent Application No. 60/548,438, filed February 27, 2004.

The prior application is commonly owned with the present application, and has Cynthia T. Clague and Douglas D. Nippoldt as common inventors with the present application. A Renewed Petition to Accept an Unintentionally Delayed Claim for the Benefit of a Prior-filed Application was filed October 30, 2007 (the "Renewed Petition"). In the Renewed Petition, the Applicants' state that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Applicants' submit that the conditions for the above-identified application to receive the benefit of the filing date of the prior-filed provisional application have been met. Therefore, the Examiner is respectfully requested to enter this amendment.

Objections to the Claims

The Examiner objected to claims 3-20 as being dependent upon a rejected base claim, but noted that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Claims 3-20 have been amended as suggested by the Examiner, and therefore Applicants' submit claims 3-20 are in condition for allowance. Notification to that effect is earnestly requested.

The 35 U.S.C. § 102(e) Rejection

The Examiner rejected claim 21 under 35 U.S.C. §102(e) as being anticipated by Nippoldt *et al.* (U.S. patent publication No. 2005/0255601). The cancellation of claim 21 renders this rejection moot. Therefore, withdrawal of the 35 U.S.C. §102(e) rejection of claim 21 is proper and respectfully requested.

The 35 U.S.C. § 103(a) Rejection

The Examiner rejected claims 22-40 under 35 U.S.C. §103(a) as being unpatentable over Nippoldt *et al.* The cancellation of claims 22-40 renders this rejection moot. Therefore, withdrawal of the 35 U.S.C. §103(a) rejection of claims 22-40 is proper and respectfully requested.

The Double Patenting Rejection

Claims 1-2, 21-23 and 41-43 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-2, 21, 42, 44-46, 71, 78-79 and 85-85 of co-pending Application Serial No. 10/892,000. The cancellation of claims 1-2 and 21-43 render this rejection moot. Withdrawal of this double patenting rejection is therefore proper and respectfully requested.

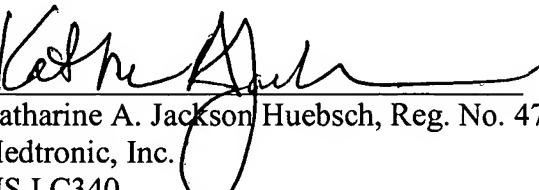
Conclusion

Applicants respectfully submit that the claims are in condition for allowance. The Examiner is invited to contact the undersigned attorney at 763-505-8423 to facilitate prosecution of this application.

If necessary, please charge any required fees or credit any overpayment to Deposit Account No. 13-2546.

Respectfully submitted,

Date: December 20, 2007

By 
Katharine A. Jackson Huebsch, Reg. No. 47,670
Medtronic, Inc.
MS LC340
710 Medtronic Parkway
Minneapolis, MN 55432
Tel. 763-505-8423
Fax. 763-505-8436
email: katy.j.huebsch@medtronic.com
Customer No. 27581